

Statement of Rep. Christopher H. Smith

Chairman, Subcommittee on Africa, Global Human Rights, and International Operations

Hearing on “An End to Impunity: Investigating the 1993 Killing of Mexican Archbishop Juan Jesus Posadas” *April 6, 2006*

Good afternoon. The purpose of today’s hearing is to examine the *circumstances* surrounding the 1993 killing of Cardinal Juan Jesus Posadas Ocampo, Archbishop of Guadalajara, Mexico, as well as the subsequent *four investigations* by the Mexican Attorney General. The case is still open today.

The facts of the case at first seem relatively straightforward: on May 24, 1993 at the Guadalajara airport, Cardinal Posadas and six others were shot and killed. The Cardinal, dressed in full clerical garb, was shot 14 times at close range in his car. One gunman, Jesus Alberto Ballardo Robles, was arrested that day for the murder.

But beyond these basic facts, there are more *unresolved* than resolved issues. Disturbing anomalies in the case indicate we have not yet gotten to the bottom of this murder.

- Later in the day of the slaughter, a Tijuana-bound flight was ordered delayed for 20 minutes, allowing eight of the gunmen to board the plane, and yet none of them were arrested upon their arrival in Tijuana.
- The Mexican government’s initial investigation concluded in July 1993 that Cardinal Posadas was the victim of mistaken identity, despite the fact that the Cardinal was a portly, gray-haired man dressed in clerical vestments and the man he was allegedly mistaken for, drug kingpin Chapo Guzman, was a slight, dark-haired man 24 years his junior.
- Cardinal Posadas was an outspoken opponent of the narco-trafficking rings which had a chokehold on Mexican society at the time. He had been directly threatened, allegedly by high-level officials of the Salinas administration. His phones had been tapped. He had been stalked outside his home prior to his death.
- Upon re-opening the investigation by the administration of President Vicente Fox in 2001, it was discovered that over 900 pages were missing from the case files, including the statement of the Papal Nuncio.

- In the 12 years since the Cardinal's murder, there have been criminal homicide and conspiracy charges filed against 51 people, and yet not a single person has been convicted for the homicide.

The actions of the Mexican government following the murder raise many disturbing questions about the apparent disinterest and even obstruction of key government officials in ensuring a transparent and thorough investigation of the incident, and in bringing those responsible for this heinous crime to account.

Some might be questioning why this Subcommittee is focusing on a case more than a decade old and which has not been in the forefront of the news in this country. Others might think this body should be looking at other human rights issues in Mexico that affect a broader number of people. My response to those objections is three-fold.

First, the Posadas case is emblematic of severe shortcomings in Mexico's justice system and its respect for the rule of law. As Joy Olson of the Washington Office on Latin America will explain later in the hearing, "Mexico's criminal justice system, rather than solve and punish crimes...contributes to confusion, cover-up, and impunity through widespread negligence, inefficiency and abuse....As a result, Mexico's criminal justice system suffers from an almost absolute lack of credibility."

The State Department's *Country Reports on Human Rights Practices for 2005*, released just last month, stated the following concerning Mexico's human rights record:

"The government generally respected and promoted human rights at the national level; however, violations persisted at the state and local level. The government investigated, prosecuted, and sentenced several public officials and members of security forces involved in criminal acts; however, impunity and corruption remained a problem....There was a marked increase during the year in narcotics trafficking-related violence, especially in the northern border region....Government efforts to improve respect for human rights were offset by a deeply entrenched culture of impunity and corruption."

The *Report* lists the following human rights problems related to Mexico's criminal justice system and respect for the rule of law:

- unlawful killings by security forces
- vigilante killings
- kidnappings, including by police
- corruption, inefficiency, and lack of transparency in the judicial system
- statements coerced through torture permitted as evidence in trials
- criminal intimidation of journalists, leading to self-censorship
- corruption at all levels of government
- trafficking in persons, allegedly with official involvement.

The second reason why it is important to uncover the truth about Cardinal Posadas' death is that finding and holding those responsible for his murder will have wide-ranging political and human rights implications for Mexico. People often wonder whether the most effective way to attack the corrosive and insidious effects of corruption is to work at the grass-roots level or to arrest it at the top. But I say (along with Edmund Burke) that all that is needed for evil to triumph is for good men to do nothing. In this country, we have not stopped our national obsession with who killed President Kennedy over 40 years after the fact, and up to a point, nor should we if there are relevant facts uncovered that cause us to re-evaluate certain conclusions in the matter.

Mexico citizens will go to the polls on July 2 of this year to elect a new President. Mexico has made significant progress towards a multi-party system after the 70-year reign of the Institutional Revolutionary Party (PRI) ended with the election of Vicente Fox in 2000, and Mexican citizens will have a genuine choice from among three political parties. This choice is significant, as violence among warring drug cartels is increasing, killing 64 people in Nuevo Laredo and 60 in Ciudad Juarez so far this year. Journalists, particularly those reporting on crime and narco-trafficking, continue to be at risk. It is my hope that all three Presidential candidates will demonstrate their commitment to promoting and defending the rule of law by pledging to get to the bottom of the Posadas case.

Third, justice is still undone. Regardless of how many years have passed since the Cardinal's death, the families of all six of the victims, and the Catholic Church, is owed an explanation and deserves to see an end to the impunity. Similarly, I was at the forefront of pushing for a commission to study the terrorist bombings of September 11, 2001, because I believed and still believe that we need to thoroughly examine all of the facts in order to ensure that such a tragedy does not happen again.

In this regard, in January I wrote to the U.S. Department of Justice regarding three Mexican nationals, Jesus Alberto Bayardo Robles ("El Gori"), Everardo Arturo Paez Martinez ("El Kitty Paez"), and Juan Garcia Abrego, whom Mexican Attorney General Daniel Cabeza de Vaca has petitioned the U.S. Department of Justice to interrogate regarding the Posadas case. All three are currently imprisoned in the United States on narco-trafficking related charges, and may have information about the circumstances of Cardinal Posadas' death that could be critical in concluding a thorough and transparent investigation. At least two of these men are said to have provided statements relevant to the Posadas case to U.S. authorities.

Yesterday, I received a response to my request stating that the U.S. Justice Department had reviewed its files and assured me it had taken "all appropriate steps" in response to any request from the Mexican Attorney General for mutual legal assistance in criminal matters. Such a response does not inspire confidence that we are close to a breakthrough or that we will see justice anytime soon.

It is an honor to have such distinguished witnesses appear before the Subcommittee today, including Cardinal McCarrick, whom I greatly respect and admire, and Fernando

Guzman, Member of the Mexican Parliament from the state of Jalisco, who has tirelessly worked to see justice accomplished in this matter. I am eager to hear the testimony of our witnesses today, and sincerely hope that this hearing will provide a spur for both of our governments to move beyond the status quo. We owe our neighbors to the South no less.